

§ 309.90

(6) Any fees charged and collected, if applicable; and

(7) Statistical, fiscal, and other records necessary for reporting and accountability required by the Secretary.

(b) The Tribal IV-D agency will comply with the retention and access requirements at 45 CFR 74.53, including the requirement that records be retained for at least three years.

§ 309.90 What governing Tribal law or regulations must a Tribe or Tribal organization include in a Tribal IV-D plan?

(a) A Tribe or Tribal organization must include in its Tribal IV-D plan Tribal law, code, regulations, and/or other evidence that provides for:

(1) Establishment of paternity for any child up to and including at least 18 years of age;

(2) Establishment and modification of child support obligations;

(3) Enforcement of child support obligations, including requirements that Tribal employers comply with income withholding as required under § 309.110; and

(4) Location of custodial and non-custodial parents.

(b) In the absence of written laws and regulations, a Tribe or Tribal organization may provide in its plan detailed descriptions of any Tribal custom or common law with the force and effect of law which enables the Tribe or Tribal organization to satisfy the requirements in paragraph (a) of this section.

§ 309.95 What procedures governing the location of custodial and non-custodial parents must a Tribe or Tribal organization include in a Tribal IV-D plan?

A Tribe or Tribal organization must include in its Tribal IV-D plan the provisions governing the location of custodial and noncustodial parents and their assets set forth in this section.

(a) The Tribal IV-D agency must attempt to locate custodial or noncustodial parents or sources of income and/or assets when location is required to take necessary action in a case; and

(b) The Tribal IV-D agency must use all sources of information and records reasonably available to the Tribe or Tribal organization to locate custodial

45 CFR Ch. III (10–1–12 Edition)

or noncustodial parents and their sources of income and assets.

§ 309.100 What procedures for the establishment of paternity must a Tribe or Tribal organization include in a Tribal IV-D plan?

(a) A Tribe or Tribal organization must include in its Tribal IV-D plan the procedures for the establishment of paternity included in this section. The Tribe must include in its Tribal IV-D plan procedures under which the Tribal IV-D agency will:

(1) Attempt to establish paternity by the process established under Tribal law, code, and/or custom in accordance with this section;

(2) Provide an alleged father the opportunity to voluntarily acknowledge paternity; and

(3) In a contested paternity case (unless otherwise barred by Tribal law) require the child and all other parties to submit to genetic tests upon the request of any such party, if the request is supported by a sworn statement by the party—

(i) Alleging paternity, and setting forth facts establishing a reasonable possibility of the requisite sexual contact between parties; or

(ii) Denying paternity, and setting forth facts establishing a reasonable possibility of the nonexistence of sexual contact between the parties.

(b) The Tribal IV-D agency need not attempt to establish paternity in any case involving incest or forcible rape, or in any case in which legal proceedings for adoption are pending, if, in the opinion of the Tribal IV-D agency, it would not be in the best interests of the child to establish paternity.

(c) When genetic testing is used to establish paternity, the Tribal IV-D agency must identify and use accredited laboratories which perform, at reasonable cost, legally and medically-acceptable genetic tests which intend to identify the father or exclude the alleged father.

(d) Establishment of paternity under this section has no effect on Tribal enrollment or membership.